The European Association of Corporate Treasurers

Interest Representative Register ID: 9160958318-89

Comments in response to

Public Consultation on Credit Rating Agencies

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The European Association of Corporate Treasurers (EACT)

The EACT is a grouping of 20 national associations representing treasury and finance professionals in 19 European countries. We bring together in excess of 8,500 members representing approximately 5,000 companies located in Europe. We comment to the European authorities, national governments, regulators and standard-setters on issues faced by treasury and finance professionals across Europe. We seek to encourage the profession of treasury, corporate finance and risk management, promoting the value of treasury skills through best practice and education.

Our contact details are provided on the final page of this document.

General

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The EACT welcomes the European Commission's initiative in publishing a working document for discussion and consultation purposes. Credit ratings play a key role in the financial system for issuers as well as investors, contributing to financial stability and supporting the prospects for growth. The provision of ratings underpins the pricing of debt and adds to market liquidity, both of which are key elements in open and competitive markets.

There is understandable concern, following the financial crisis of 2008, that change is needed. However we hope that as the Commission moves forward to develop proposals it will take due account of what works well at present. We rely on the ability of the Commission to make its considered judgment and refrain from endorsing proposals that may be politically attractive but lack substance in analysis and fact.

The EACT's position

In addition to this submission by the EACT at least two of our member associations have also responded to the questions raised by the Commission. We wish particularly to draw attention to submissions by The Association of Corporate Treasurers (ACT) and the Association Française des Trésoriers d'Entreprise (AFTE), both of which provide more detail in support of our comments and make additional points that we confirm also have the support of the EACT.

In the interests of avoiding duplication and of providing in the name of the EACT a brief and straightforward submission, we are restricting our comments to the following:

Question 18 We are greatly concerned at the suggestion of a three-day delay in publication of a sovereign debt rating. We see an overwhelming disadvantage in the risk of market abuse and also argue that such a change would be incompatible with the principle of non-selective and timely disclosure required under Article 10 of the CRA Regulation.

Questions 23-30 We feel that the underlying implication in these questions of an official (or state) role in ratings would be an adverse and unhelpful change.

Questions 24-25 The suggestion that central banks (and the ECB) might be providers of ratings for regulatory purposes seems to us to have a number of fundamental flaws (as discussed in the response by the ACT). We would in particular stress the following:

- The risk that 'official' ratings would have a special position in the view of the public, together with the likelihood that individuals and companies might seek compensation from public funds in the event of eventual losses
- The absence of a clear relationship between the provision of such 'official' ratings and the pricing of them (which we consider important to transparency and service levels)
- The potential for serious conflicts of interest on the part of a central bank that is providing ratings

Question 27 We do not see how the creation of a new, independent, European Credit Rating Agency (perhaps with a mandatory role as noted in the question) can contribute to fairer competition

Questions 31 We are opposed to the introduction of a common EU level principle of civil liability for credit rating agencies. There seems to be a suggestion here that agencies perform a *credit insurance* role, an idea that is of course fallacious. If for the sake of argument such a principle of liability were introduced we believe that it would have a dramatically adverse effect on the cost of ratings.

Questions 34 We strongly disagree with the suggestion that a fee-paying issuer can have a distorting influence on the determination of a rating. This is completely counter to the experience of treasury association members, who deal on a day-to-day basis with the credit rating agencies.

We do however recognise that the rating of 'structured products' is (at least historically) an exception to the general rule that fee-paying issuers do not influence ratings. This particular market – which is certainly not relevant to the overwhelming majority of corporate treasurers – does appear to have been dominated by a small number of issue sponsors and we share the public concerns over the risks of abuse.

Questions 35 In response to the challenge this question poses to the 'issuer pays' model we can only echo our agreement with the International Monetary Fund, which wrote in its October 2010 Global Financial Stability report: "*There seem to be few viable alternative compensation models to an issuer-pay business model in the foreseeable future. In particular, it is not realistic to return to a general investor-pay subscription model*".

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